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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,282

11/15/2003

Clare L. Hoke JR.

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7590  
Clare L. Hoke Jr.  
Suite 11  
1318 N. Monte Vista Ave.  
Upland, CA 91786

12/09/2008

EXAMINER

MURDOUGH, JOSHUA A

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

12/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**ACTION**

1. The Amendment of 10 March 2008 does not contain reference to claims 1-31. The Examiner acknowledges his note in the previous action in regards to these claims (Paragraph 1). However, the lack of the status for these claims is causing difficulty in processing. As there have been no claims presented with these numbers, an indication that the claims are canceled (as was done for claims 1-12 in the original listing) would be most appropriate.
2. Also, claims 43-45 are currently listed as being withdrawn. A claim can only properly be withdrawn by the Examiner after a restriction. It appears Applicant intended these claims not to be examined in the next office action. If this is the case, Applicant should cancel these claims.
3. With these claims being listed as withdrawn, they are still considered pending and therefore count toward the number of claims. As claims 32-54 would be pending, a fee for the three claims in excess of twenty would be required. If Applicant cancels claims 43-45, as noted above, this situation would also be remedied.
4. To properly respond to this notice, Applicant should:
  - a. Submit a new listing of the claims;
  - b. Indicate claims 1-31 are canceled; and
  - c. Indicate claims 43-45 are canceled **or** Indicate claims 43-45 as previously presented and pay the appropriate fee for the claims in excess of 20.
5. If Applicant replies within 1 month of the mailing date of this notice, and chooses to cancel claims 43-45, there should be no fees due with the response. If Applicant replies after the 1 month period, an extension of time fee must be paid.

6. The reply filed on 10 March 2008 is not fully responsive to the prior Office Action because of the above omission(s) or matter(s). See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough, Examiner, Art Unit 3621

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/713,282

Examiner

JOSHUA MURDOUGH

Applicant(s)

HOKE, CLARE L.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 March 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

## THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See attached.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

## **Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.